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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/807,999

03/24/2004

Mark H. Falahee

FLH-11702/29

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EXAMINER

PHILOGENE, PEDRO

ART UNIT

PAPER NUMBER

3733

MAIL DATE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action**  
**After the Filing of an Appeal Brief**

Application No.

10/807,999

Applicant(s)

FALAHEE, MARK H.

Examiner

Pedro Philogene

Art Unit

3733

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

The reply filed 11 August 2009 is acknowledged.

1. ☐ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

a. ☐ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).

b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief.  
See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☒ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☒ Other: Contrary to applicant's arguments in the reply brief filed 8/11/09, where applicant stated "This Reply Brief is being submitted in response to new arguments raised in the Examiner's Answer mailed June 11, 2009"; these arguments, however, were first presented in the Final Rejection mailed 4/26/05, they are not new arguments. Therefore, applicant's Reply Brief is noted and claims 1,3-12 are rejected.

/Pedro Philogene/  
Primary Examiner, Art Unit 3733